



## Staff Complaints and Grievance Management Policy and Procedures

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<b>National Quality Standard</b>	Quality Area 7 – Governance and Leadership. Related Quality Areas 2,4,5,6

### Contents

<b>Policy Statement</b> .....	<b>2</b>
<b>Scope</b> .....	<b>3</b>
<b>Policy Aims and Rationale</b> .....	<b>3</b>
<b>Definitions</b> .....	<b>4</b>
<b>Strategies and Practices</b> .....	<b>6</b>
Privacy and Confidentiality .....	6
Conflict of Interest .....	6
Training .....	6
<b>General Guidelines for Dealing with Staff Complaints and Grievances</b> .....	<b>6</b>
<b>Procedures for Managing Staff Complaints and Grievances</b> .....	<b>7</b>
Risk Assessment .....	7
Step 1: Dealing with a General Staff Complaint – Informal Discussion .....	7
Step 2: Managing a Formal Staff Grievance – Formal Grievance Procedures .....	8
Undertake Investigation .....	8
Arrange Formal Grievance Meeting .....	9
Formal Grievance Meeting Procedures .....	9
Report Outcomes to Management Committee of Outcomes .....	10
Arrange Follow-up Meeting .....	10
Step 3: Contacting an Outside Agency .....	10
Terminating Formal Grievance Procedures .....	10
<b>Summary Chart: Staff Complaints and Grievance Management Procedures</b> .....	<b>11</b>
<b>Reporting Obligations</b> .....	<b>12</b>
Criminal Conduct .....	12
Notifiable Complaints .....	12
Reportable Conduct .....	13
Child Abuse and Neglect .....	13
<b>Summary Chart: Reporting Obligations</b> .....	<b>14</b>
Documenting Staff Complaints and Grievances .....	15
Monitoring and Evaluating Staff Complaints and Grievances .....	15
<b>Summary of Responsibilities</b> .....	<b>15</b>
<b>Related Policies and Documents, References and Further Reading</b> .....	<b>17</b>
<b>Version Control and Change History</b> .....	<b>18</b>
 <i><b>Appendix 1: Relevant National Law, Regulations and Quality Standards</b></i> .....	 <i><b>20</b></i>



## Policy Statement

All members of staff, management and the Management Committee at Heritage understand the importance of working in partnership to ensure the best outcomes for the children in education and care. Despite the best efforts of all staff and management to work in harmony, inevitably there will be times when conflict arises, or simply different opinions present themselves. The Staff Complaints and Grievance Management Policy is to be used where there is a complaint or grievance between members of staff, management or the Management Committee. Examples include when a staff member disagrees with a decision or action at Heritage by a fellow staff member or supervisor that may affect their working relationship/the work environment; complaints related to working conditions, policies or practices; and allegations of staff misconduct such as ill-treatment of a child, or bullying, harassment or discrimination. All Heritage supervisors and managers, including Room Leaders, the Director and Management Committee are responsible for identifying, preventing and responding to inappropriate workplace situations at Heritage.

This policy will be made available to all parties involved in a staff complaint or grievance and must be read in full. Where there is a complaint or grievance between other members of the Heritage community, such as between a family and an educator or a visitor and management, the Complaints and Grievance Management (non-Staff) Policy and Procedures must be used.

This policy and related procedures have been developed to ensure compliance with all legislative requirements and the Heritage philosophy of creating a working environment based on mutual respect and open communication. **Refer to:** Heritage Philosophy Statement. Heritage believes that a good internal staff complaints and grievances process is an essential management tool for the provision of a high-quality early education and care service and helps management to identify ways to improve workplace practices and policies; to improve staff morale, productivity and retention; and to help avoid complaints to external agencies and/or legal action.

This policy formally recognises, promotes and protects each staff and management member's rights to be treated fairly and with dignity and respect (**refer to:** Heritage Code of Conduct (Ethics)). It is designed to ensure that a high level of equity is provided in relation to complaint and grievance management. This includes knowing that they have the right to make a complaint or formal grievance and have it handled in a timely manner, in accordance with the principles of procedural fairness and natural justice. All staff and management have the right to present their version of events, to be protected from being victimised for lodging a complaint or formal grievance, and to be protected from vexatious or frivolous complaints and grievances. All involved parties have the right to comment on or appeal against any action or decision that has consequences for themselves without fear of recrimination.

Heritage management understands the obligation to report to the police and/or certain regulatory authorities when staff complaints or grievances allege staff misconduct that may constitute criminal conduct, a Notifiable Complaint, Reportable Conduct or child abuse/neglect. Following a complaint or grievance against an employee of child-related misconduct, Heritage management understands it is also responsible for assessing the risk that employee poses to a child or group of children. This responsibility also applies during any investigation and following any final decision regarding the action to be taken. Heritage understands this risk assessment must be provided to the ACT Ombudsman as required. (**Refer to:** Reportable Conduct Policy).

Heritage respects the importance and need for privacy and confidentiality when managing staff complaints and grievances and will ensure that where a conflict of interest presents itself, an alternative arrangement for mediating the grievance will be sought.

This policy may be accessed at any time in the Policy and Procedures Folder in the staff room. Information on this policy will be provided during staff and Management Committee induction processes and on-going access to relevant training and professional development will be provided to management and staff, including during staff meetings.



## Scope

All Heritage members of staff (permanent, part-time, casual or volunteer), management and the Management Committee agree to implement the Heritage Staff Complaints and Grievance Management Policy and Procedures. All procedures will be justly applied to all parties, regardless of their role. This policy does not apply when there is a grievance between families and staff members. In this instance, **refer to:** Complaints and Grievance Management (non-Staff) Policy.

## Policy Aims

The Staff Complaints and Grievance Policy and Procedures has been developed to ensure that all members of staff, management and the Management Committee understand what must occur in the event of a complaint or formal grievance between them. It is designed to ensure that a high level of equity and fairness is provided in relation to complaint and grievance management. Specifically, this policy aims to ensure:

- The Heritage Philosophy and Code of Ethics is adhered to.
- Sensitive and prompt responses by supervisors and management to all persons involved in a complaint or grievance.
- A service culture that values the opportunity to be heard, promotes peaceful conflict resolution and collaborative partnerships.
- A culture that is free from discrimination and harassment.
- Policies and procedures are transparent and accessible with the complaint process clearly explained and easy to understand for all parties involved.
- Procedural fairness and natural justice is adhered to in the resolution process, with both the complainant and the respondent having the right to:
  - Be heard fairly.
  - An unbiased decision made by an objective decision maker.
  - Have the decision based on relevant evidence.
- All reasonable steps are taken in the resolution process to respect confidentiality and to mitigate conflicts of interest.
- A formal grievance is described as an allegation, not a fact until it has been investigated and a decision is made.
- Staff and management who report a grievance are kept informed of the progress of the matter and protected from victimisation, reprisal and vexatious or malicious complaints and grievances.
- Avenues for recourse and further investigation are available.
- Reporting obligations to government agencies and regulatory authorities are adhered to and management co-operates fully and openly in any subsequent investigations.
- An assessment is made of the risk posed by a staff member to a child or children following any complaint or grievance alleging child-related staff misconduct.
- Appropriate records are maintained throughout the dispute resolution process.

## Rationale

Heritage recognises it has a duty of care to take all reasonable and practicable steps to provide a safe and healthy work environment for the Heritage community that supports the emotional and physical wellbeing of all employees and children (*Work Health and Safety Act, 2011*). In addition, this policy has been developed to comply with the:

- *Education and Care Services National Law Act 2010 (ACT)*
- *Education and Care Services National Regulations 2011 (ACT)*
- *National Quality Standard for Early Childhood Education & Care & School Age Care 2012. Refer to:* Appendix - Relevant National Law, Regulations and Quality Standards.
- *Australian Human Rights Commission 2005 (ACT)*
- *Reportable Conduct and Information Sharing Legislation Amendment Act 2016*
- *Fair Work Act 2009 (Cth).*
- Australian Standard AS ISO 10002-2006: *Customer Satisfaction— guidelines for complaints handling in organizations.*



- *Discrimination Act 1991 (ACT) (Territory)*
- *Children and Young People Act 2008*
- *Privacy Act 1988 (Cth)*
- *Freedom of Information Act 1982 (Cth)*
- Heritage Philosophy Statement and Heritage Code of Ethics
- United Voice and Heritage Big Steps Enterprise Agreement 2013
- Heritage Employment and Staffing (incl. Students & Volunteers) Policy and Procedures

#### Related Discrimination Legislation

Disability Discrimination Act 1992 (Commonwealth)

Ombudsman Act 1976 (Commonwealth)

Racial Discrimination Act 1975 (Commonwealth)

Sex Discrimination Act 1984 (Commonwealth)

Workplace Relations Act 1996 (Commonwealth)

*Workplace Gender Equality Act 2012*

**Refer to:** Guide to Australian Discrimination Law (2017). [www.humanrights.gov.au/employers](http://www.humanrights.gov.au/employers)

## Definitions

**General Complaint:** In relation to this policy, a General Complaint is defined as an issue of a minor nature that can be resolved promptly, usually within 24 hours, through an informal discussion/negotiation between the parties involved and does not require a detailed grievance investigation or formal meeting by a Mediator. (General Complaints do not usually have to be reported to the Regulatory Authority, however may constitute Reportable Conduct, eg, a low-level crossing of professional boundaries in relation to a child - see below).

**Formal Grievance:** In relation to this policy, a Formal Grievance is a formal statement of complaint that cannot be addressed immediately or a complaint that involves matters of a more serious nature. For example, a member of staff observes another member of staff using physical force to discipline a child.

**Complainant:** Person making a General Complaint.

**Frivolous Complaint:** A complaint that has no serious purpose or value. Often one that appears so trivial or meritless that an investigation would be disproportionate in terms of time and cost. The implication being that the claim has not been brought in good faith because it is obvious that it has no reasonable prospect of success and/or it is not a reasonable thing to spend time complaining about.

**Vexatious Complaint:** A complaint that is specifically being pursued to harass, annoy or cause financial cost to the recipient.

**Aggrieved Person:** Person making a Formal Grievance.

**Respondent:** Person against whom a General Complaint or Formal Grievance is being made.

**Mediator:** A neutral, impartial and unbiased person appointed to mediate and reconcile differences between disputants.

**Mediation:** An attempt to bring about a peaceful settlement or compromise between disputants through the objective intervention of a neutral party.

**Notifiable Complaint:** Under the *Education and Care Services National Regulations 2011*, the Committee is required (from October 2017) to notify the ACT Regulatory Authority (CECA)

**within 24 hours of a** complaint/grievance being lodged where an allegation is made that:

- A 'serious incident' has occurred or is occurring or;
- The *Education and Care Services National Law 2010* or *National Regulations 2011* have been contravened.

**Serious Incident: Refer to:** Appendix 1: National Regulation 12. Definition of a Serious Incident.

**Reportable Conduct<sup>1</sup>:** Under the ACT Reportable Conduct Scheme, child-related misconduct (whether allegations or convictions – see definitions below) engaged in by an employee of Heritage (including volunteers and others engaged to provide services to children) of Heritage,

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<sup>1</sup> Refer to: Reportable Conduct Policy.



whether or not in the course of employment with Heritage and regardless of a child's consent.

Reportable conduct includes:

- Sexual offences and convictions where a child is a victim or is present.
- Offences against the person, including physical offences and convictions, where a child is a victim or is present.
- Conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct.
- Offences against the *Education and Care Service National Law* sections 166 and 167 (inappropriate discipline or offences relating to protecting children from harm).
- Ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and restrictive intervention).
- Psychological harm.
- Misconduct of a sexual nature - There are three categories of sexual misconduct: crossing professional boundaries; sexually explicit comments and other overtly sexual behaviour, and grooming behaviour

Reportable conduct does not include conduct:

That is reasonable discipline, management or care of a child taking into account the characteristics of the child, and any relevant code of conduct or professional standard that at the time applied to the discipline, management or care of the child; or

- If the conduct is investigated and recorded as part of workplace procedure that is trivial or negligible; or
- Prescribed by regulation.

Examples:

- Touching a child to attract their attention, to guide a child, or to comfort a distressed child.
- A school teacher raising their voice to attract attention or restore order in a classroom.
- Accidental conduct.

**Reportable Allegation:** An express assertion that reportable conduct has happened.

**Reportable Conviction:** A conviction/finding of guilt relating to an employee:

- For an offence, under a territory law or a State or Commonwealth law, involving Reportable Conduct; and
- Entered against the person before or after the commencement of the Reportable Conduct and Information Sharing Legislation Amendment Act 2016, section 3.

**Child Abuse:** Under the *ACT Children and Young People Act 2008*, child abuse is defined as types of maltreatment that endangers a child/young person's safety, wellbeing, and development. Child abuse can be a single incident or a chronic pattern of behaviour over time and may be intentional or unintentional.

**Neglect:** Neglect is defined as a failure to provide a child/young person with the basic needs for his/her physical, emotional/psychological and intellectual development. It may be chronic or episodic. For specific examples of Child Abuse or Neglect, **refer to:** Child Protection Policy.

**Sexual harassment:** The legal definition (under Workplace Discrimination Law) of sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where a reasonable person would anticipate that reaction in the circumstances.

**Discrimination:** Treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by law. *The Discrimination Act 1991 (ACT)* sets out personal characteristics that make discrimination in employment against the law.

**Bullying:** Bullying at work is defined by the Fair Work Act 2009 as when a person or a group of people behaves unreasonably and repeatedly towards a worker or a group of workers while at work, and the behaviour creates a risk to health and safety. **Refer to:** Reporting Obligations.



## Strategies and Practices

### Privacy and Confidentiality

Heritage is committed to ensuring privacy and confidentiality in the management of staff complaints and grievances.

- Discussions regarding General Complaint or Formal Grievance will be held in confidence with those individuals directly involved.
- Matters which need to be raised with members of the Management Committee, will be given due regard for privacy and confidentiality.
- Information will only be provided to those people on a “needs to know basis” in order for the General Complaint/Formal Grievance to be actioned properly.
- The resolution process will be transparent and those directly involved will be entitled to and kept informed of progress, possible outcomes, responses and the reasons for any decisions.
- The Heritage community understands there may be a requirement to disclose information to a third party when directed by legislative requirements. For example, if a Formal Grievance involves child protection issues, a government agency may need to be informed.

**Refer to:** Privacy and Confidentiality Policy

### Conflict of Interest

- Heritage recognises that a conflict of interest may arise during a staff complaint or grievance management procedure.
- Management will ensure that where a conflict of interest is identified, an alternative mediation arrangement is sought. For example, if a staff member voices a grievance against the Director and the Director is the Mediator, a conflict of interest would arise and it is unlikely that the aggrieved person would be heard fairly or the decision-making process would be unbiased. In this case, the Chairperson of the Management Committee and/or the Human Resources Officer would be the appropriate Mediator.

### Training

- All Heritage staff members will be encouraged to access appropriate training so that they may participate in, encourage and respect the diversity of colleagues and families at Heritage. **Refer to:** Creating Inclusion and Equity Policy and Procedures.
- To facilitate complaint resolution at the informal, early stages, Heritage will provide access to information and training, particularly for supervisors, in managing conflict effectively.
- Heritage management understands that staff complaints and grievances alleging discrimination and/or harassment can be complex, sensitive and may potentially involve external agencies, such as the ACT Regulatory Authority or the Human Rights Commission. Heritage will ensure that supervisors have access to up to date knowledge in this area.

## General Guidelines for Dealing with Complaints and Grievances

### It is understood that:

- People often feel strong emotions during the process of raising and responding to complaints and it is important to empathise with the other’s perspective.
- Conflict isn’t good or bad and is important to make progress

### Heritage management will:

- Defuse emotions by acknowledging feelings and stating positively a wish to find a solution.
- Actively listen to the complainant/ aggrieved person and ask questions to clarify their concerns.
- Allow each person to be speak and be heard equally.
- Ask the aggrieved person if they have any strategies or solutions they feel the service could put into practice to resolve their issues.
- Avoid responding immediately and defensively to the issues raised.



## Procedures for Managing Staff Complaints and Grievances

- When a member of staff, management or the Management Committee voices a General Complaint or lodges a Formal Grievance against another member of staff, management or the Management Committee at Heritage, the following procedures will provide a step-by-step guide to how the matter will be managed.
- First and foremost, Heritage expects members of staff, management or the Management Committee to discuss minor issues and misunderstandings informally with the persons concerned at the local level in good faith. This means in a respectful and timely manner in order to reach a positive and mutually acceptable resolution which maintains a respectful working environment that contributes to the ongoing success of Heritage (**refer to:** General Guidelines above). Discussions can take the form of a conversation or meeting at a mutually convenient time.
- Where a member of staff feels they cannot talk directly to the person they have the minor issue with, or where the issues are affecting the efficiency of the working environment, staff members are encouraged to discuss the matter with their Room Leader or Director (or Human Resources Officer/Chair of Management Committee, if the issue is with the Director), as soon as practicable to avoid an escalation of the issue.

### Risk Assessment

- Heritage management must carefully assess the potential risk an employee poses to a child or group of children following a complaint of child-related misconduct. This responsibility also applies during any investigation and following any final decision regarding any action to be taken. Heritage understands this risk assessment may be required to be provided to the ACT Ombudsman. **Refer to:** Reporting Obligations

## Step 1: Dealing with a Staff General Complaint - Informal Discussion

When a General Complaint is received, the person to whom the complaint is addressed, such as the Room Leader or Director, must:

- Listen to the Complainant with empathy and a view to resolving the matter in a supportive, fair and respectful manner. **Refer to:** General Guidelines above.
- Document the complaint using clear, precise, objective and transparent wording to minimise confusion and misinterpretation on the **General Complaint Record Form**.
- Inform the Complainant of this policy.
- Comply with the Heritage Privacy and Confidentiality Policy with regard to all meetings and discussions in relation to the complaint.
- Inform all parties not to disclose information about the complaint to others who are not directly involved.
- Encourage the Complainant to resolve the complaint with the person directly through an informal discussion where possible. The discussion may take the form of a conversation or meeting at a mutually convenient time with a view to coming to a positive and mutually acceptable resolution. This approach is relevant where:
  - The Complainant is comfortable discussing the matter directly to with the Respondent.
  - The information on hand supports the view that the Complaint has arisen from a misunderstanding or miscommunication that can be easily resolved.
  - The behaviour being complained about does not constitute Reportable Conduct (**refer to:** Definitions).
- Where a resolution is reached, complete the **General Complaint Record Form**. All agreed solutions, strategies and timeframes must be recorded. Both parties must:
  - Understand and agree the steps to be taken to resolve the conflict. For example, it may be necessary for certain behaviours to cease and apologies to be given.
  - Agree the timeframe in which the resolutions and reviews of progress will be undertaken.
  - Understand their responsibilities for maintaining communication and giving open and honest feedback on progress.
- Inform the Complainant that if at any time they are unsatisfied with the progress towards a resolution of their concern, they may put the complaint in writing to the Director or Chair



of the Management Committee, move onto the Formal Staff Grievance Procedure, outlined in Step 2.

- Inform the Director (or Chair of the Management Committee if the Director received the complaint) in writing if the complaint:
  - Is unable to be resolved appropriately in a timely manner,
  - Escalates and becomes a Formal Grievance (**refer to:** Definitions).
  - Is of a serious nature that may require reporting to a government authority (eg, allegations of conduct that may constitute criminal activity, a Notifiable Complaint, child abuse/neglect, bullying and harassment etc. **Refer to:** Definitions).

### Step 2: Managing a Staff Grievance - Formal Staff Grievance Procedure

When a Formal Grievance is received in writing by the Director or Chair of the Management Committee/Human Resources Officer, they must follow the Formal Grievance Procedures and:

- Acknowledge and respond to the grievance in writing within **5 business days** of receipt and inform the Aggrieved Person of the start of Formal Staff Grievance Procedures.
- Handle the grievance in a sensitive, discreet and professional manner, ensuring responses are given with empathy and a view to resolving the matter in a supportive, fair and respectful manner. **Refer to:** General Guidelines above.
- Provide a copy of this policy to the Aggrieved Person.
- Ensure that the lines of communication are clear in the interest of fairness and privacy.
- Consider and clarify the nature and details of the grievance with a view to understanding the resolution being sought eg. discontinuing certain behaviour, apology required from a staff member, changes to procedures.
- Document the issue using clear, precise, objective and transparent wording to minimise confusion and misinterpretation on the **Formal Grievance Record Form** and include a general timeframe for resolving the conflict.
- Comply with the Heritage Privacy and Confidentiality Policy and direct staff and management involved not to disclose information about the Formal Grievance to others who are not directly affected.
- Inform the Management Committee and ask them to appoint a Mediator to investigate the grievance, taking into consideration any potential conflicts of interest. The Director will usually be appointed as the Mediator (or Chair of the Management Committee or Human Resources Officer on the Committee, or other party if there is deemed to be a conflict of interest).

### Undertake Investigation

The Mediator must:

- Investigate and endeavour to resolve the matter in a timely manner.
  - As time passes, information relevant to the complaint may deteriorate or be lost, which impacts on the fairness of the resolution process.
  - Unresolved issues can have a negative and ongoing impact on the workplace.
- Ensure the investigation is undertaken in an equitable, transparent and fair manner.
- Investigate the matter by consulting with/interviewing the relevant stakeholders/witnesses in person or by phone with due regard to privacy and confidentiality and General Guidelines above.
- Ensure the Respondent and each person involved is given the opportunity to explain their version of events in writing or through an interview, and provide them with support, a copy of this policy and additional information where relevant in relation to the grievance.
- Review all available information, obtain relevant documents and seek advice, where appropriate, from individuals or organisations that may be able to assist in resolving the grievance. (Any cost in seeking advice will require prior approval by the Management Committee).
- Research and take appropriate action, in consultation with the Management Committee, regarding any legal requirements in relation to the grievance including assessing if it may be a Notifiable Complaint or involves alleged Criminal Conduct, Reportable Conduct or Child Abuse or Neglect and notify the police, or relevant regulatory/licensing bodies within the required timeframes.





- Where bullying, discrimination or sexual harassment is alleged, research relevant legal components and consider contacting the Australian Human Rights Commission or Fair Work Australia for advice. **Refer to:** Reporting Obligations.
- Identify which service policies (if any) the Formal Grievance involves, eg, Staff Underperformance and Misconduct, Behaviour Guidance, Non-Compliance, Work Health and Safety, Code of Ethics etc.
- Document all discussions and interactions, including the time, date and detail of meetings/discussions on the **Formal Grievance Record Form**.
- Ensure all other appropriate records are made of the information and data collected, including Incident Reports, and copies made of relevant documentation relating to the grievance.
- Provide a follow up letter to the Aggrieved Person outlining any new information and inform them of the role the relevant authorities such as CECA may take in investigating the grievance. **Refer to:** Reporting Obligations.
- Be available to meet with CECA or other relevant government bodies if required and provide additional information as requested.
- Store all written information relating to grievances securely and in compliance with the Privacy and Confidentiality Policy and Procedures.

#### Arrange Formal Grievance Meeting

Following the investigation, the Mediator must:

- Schedule and chair a Formal Grievance meeting involving all relevant parties, ensuring there is no conflict of interest. This may include relevant staff members, the Director, the Chair of the Management Committee, the Human Resources Officer, and, where appropriate, an independent person selected from outside the Heritage community to suit the particular circumstance. Heritage understands that staff may wish to seek the advice of external agencies where there may be allegations of bullying (**refer to:** References),
- Discuss the information gathered, including the role the relevant authorities such as CECA may take in investigating the grievance and any policies and procedures that may have been breached.
- Endeavour to resolve the grievance by mutual agreement of the parties involved, following the Formal Staff Grievance Meeting Guidelines over-page.

#### **Formal Staff Grievance Meeting Procedures**

- Each party will receive a copy of this policy prior to the meeting.
- Every attempt will be taken by all parties to resolve the conflict at the Formal Grievance Meeting.
- The meeting must be approached with a positive and productive attitude by all parties and undertaken in good faith.
- **All parties must:**
  - Deal only with the parties involved.
  - Remove blame and empathise with others' perspectives.
  - Avoid reacting defensively.
  - Listen carefully and not interrupt each other.
  - Allow each person to be heard equally.
- **The Mediator must guide all parties at the meeting to:**
  - Define and agree on the problem - what is currently happening?
  - Set a goal – what do the parties want to happen?
  - Create strategies and solutions to meet the goal – what are the options for resolution?
  - Define what actions the parties will each commit to.
- **Ensure minutes of the meeting are taken and added to the Formal Grievance Meeting Form.** Include details of resolution strategies and the timeframes agreed upon to resolve the conflict. Resolutions may include the Respondent providing a formal apology to the Aggrieved Person, agreeing to cease certain behaviours, attending training/professional development, recommendations to the Management Committee for disciplinary action or changes to policies and procedures). Copies must be prepared and distributed to all parties present at the meeting.



### Report Outcomes to the Management Committee

Following the meeting, the Mediator must:

- Report outcomes to the Management Committee in a timely manner and provide any recommendations for consideration by the Management Committee. See below.
- Advise the Aggrieved Person and other relevant parties in writing of any decisions made by the Management Committee in relation to the Formal Grievance.

### Where the Grievance allegations are admitted by the Respondent or substantiated during the investigation or meeting, the Mediator must:

- Make recommendations to the Management Committee in relation to resolution of the Grievance.
- Where misconduct, serious misconduct or non-compliance with policies and procedures has been identified, advise the Management Committee to implement procedures including disciplinary action as appropriate (**refer to:** Staff Underperformance and Misconduct Policy, Non-Compliance Policy).
- Any recommendations for changes to policies or practices must be in accordance with relevant legislation including, but not limited to the *Education and Care Services National Law Act 2010* and *Education and Care Services National Regulations 2011*
- Inform the Management Committee on the involvement of the government authorities such as the ACT Ombudsman, CECA or Child and Youth Protection Service, and the outcomes of any investigations by them. The Management Committee will be responsible for reviewing any investigator recommendations and making decisions on the action to be taken (if any), including relevant review mechanisms.

### Where the allegations are not substantiated during the investigation or meeting, the Mediator must:

- After due consideration, and in consultation with the Management Committee, dismiss the grievance if it appears:
  - The decisions and actions that prompted a grievance are affirmed as correct procedure.
  - To be vexatious, frivolous (**refer to:** Definitions).
  - It was lodged to avoid performance management, misconduct or other serious workplace matters.
- Where the grievance is dismissed, take appropriate action including informing the aggrieved person in writing of the decision and advise them they may move onto Step 3 (below) if they are unhappy with the decision.
- Advise the aggrieved person and other relevant parties of any decisions made by the Management Committee in relation to the grievance.
- Make recommendations to the Management Committee as appropriate such as providing refresher training for all staff regarding appropriate workplace behaviour or re-issuing relevant policies such as the Code of Ethics to all employees.

### Arrange Follow-up Meeting

The Mediator must arrange a follow-up meeting to evaluate progress, determine if the agreed resolution strategies are working, the Management Committee has implemented any agreed actions, and the matter has been resolved to the satisfaction of all parties.

### **Step 3: Contact an Outside Agency**

If at any time the Aggrieved Person is unhappy with the Staff Complaints and Grievance Procedure or feels that the grievance has not been resolved satisfactorily, it is their right to take the matter further, for example to Fair Work Australia – [www.fairwork.gov.au](http://www.fairwork.gov.au).

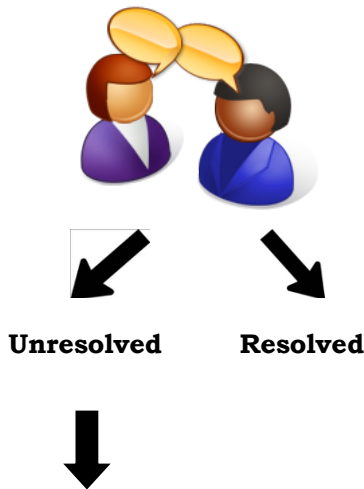
### **Terminating Formal Grievance Proceedings**

The Aggrieved Person may terminate Formal Grievance proceedings under this policy at any time by delivering to the Director, Chairperson of the Management Committee or Human Resources Officer on the Management Committee, a written notification requesting such withdrawal.



## Summary of Staff Complaints and Grievance Management Procedures

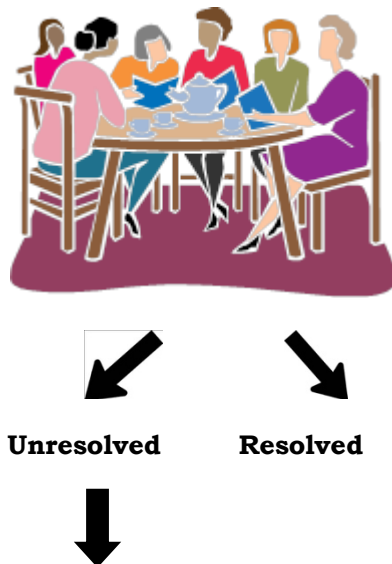
**Step 1: Dealing with General Complaints - Informal discussion with parties involved and/or Director**



### Managing Conflict Guidelines

- People often feel strong emotions during the process of raising and responding to grievances and it is important to empathise with the other's perspective.
- Conflict isn't good or bad and that it is important to get things done.
- Try to diffuse emotions by acknowledging feelings and stating positively a wish to find a solution;
- Actively listen and ask questions to help clarify concerns.
- Avoid responding immediately and defensively to the issues raised.
- Allow each person to speak and be heard equally.

**Step 2: Formal Grievance Procedure: Write to Director or Chairperson/Human Resources Officer on the Management Committee.** Mediator Appointed to Investigate, organise a Meeting with Parties involved and Make Recommendations to the Committee. If, after due process, it is deemed that a person in the Heritage community has not complied with Heritage policies or procedures, the Non-Compliance Policy will apply.



### Formal Grievance Meeting Guidelines

- Every attempt will be taken by all parties to resolve the conflict.
- The meeting must be approached with a positive and productive attitude by all parties who must:
  - Deal only with the parties involved;
  - Remove blame and empathise with others' perspectives;
  - Avoid reacting defensively;
  - Allow each person to be heard equally;
  - Listen carefully and not interrupt each other.

The Mediator must guide all parties at the meeting to:

- Define and agree on the problem - what is currently happening?
- Set a goal – what do the parties want to happen?
- Create strategies and solutions to meet the goal – what are the options for resolution?
- Define what actions the parties will each commit to.

**Step 3: Contact outside agency**

- For example, Fair Work Australia.  
[www.fairwork.gov.au](http://www.fairwork.gov.au)



## Reporting Obligations

### General Complaints

The Director (or Chair of the Management Committee if the complaint is against the Director) must be informed as soon as practicable if a complaint is voiced by member of staff and:

- Is unable to be resolved appropriately in a timely manner.
- Escalates and becomes grievance (**refer to:** Definitions).
- Is of a serious nature such as allegations of conduct that may constitute criminal activity, a Notifiable Complaint, Reportable Conduct, child abuse/neglect, sexual harassment, discrimination or workplace bullying (**refer to:** Definitions).

### All Complaints and Grievances

The Director (or Chair of the Management Committee/Human Resources Officer if the complaint is against the Director) must assess all Complaints and Grievances received, in consultation with the Management Committee, to determine if there are allegations which may constitute:

- Criminal activity, a Notifiable Complaint, Reportable Conduct or child abuse/neglect (**refer to:** Definitions). The procedures and timeframes for informing the relevant authority are set out below. If unsure whether a matter needs to be reported, the relevant authorities must be contacted for clarification.
- Sexual harassment, discrimination or workplace bullying (**refer to:** Definitions). In this case, the relevant components under related human rights, anti-discrimination, employment equity, workplace safety and industrial relations legislation will be researched and the relevant authorities contacted for advice if necessary.

### **Criminal Conduct**

If a complaint or grievance is received that alleges criminal conduct has occurred, the police must be informed in the first instance. **Refer to:** <https://www.police.act.gov.au/>

### **Notifiable Complaints**

- The Management Committee (as of October 2017) is required to notify the ACT Regulatory Authority (CECA) of a staff Complaint or Grievance if it alleges that:
  - A serious incident has occurred or is occurring (**Refer to:** Appendix: National Regulation 12) or;
  - The *Education and Care National Law* or *National Regulations* have been contravened.
- Minor complaints do not usually have to be reported to CECA, however if a Complaint arises that is not reportable to CECA but does amount to Reportable Conduct (see below), for example, a low-level crossing of professional boundaries, Heritage understands this must still be reported to the ACT Ombudsman.
- Notifiable Complaints must be reported by the Management Committee to CECA within **24 hours** of the complaint being made. Written notification of Notifiable Complaints must be submitted using the appropriate online form on the ACECQA website: [http://files.acecqa.gov.au/files/ApplicationForm/Notification/NL01\\_NotificationOfComplaintsAndIncidents.pdf](http://files.acecqa.gov.au/files/ApplicationForm/Notification/NL01_NotificationOfComplaintsAndIncidents.pdf)
- The forms must include:
  - Details of the event or incident.
  - The name of the person who initially made the grievance.
  - If appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant).
  - Contact details of a nominated Grievances mediator/investigator.
  - Any other relevant information.
- Should a Complainant or Aggrieved Person report directly to CECA and CECA notifies Heritage, the Heritage Management Committee still has responsibility for investigating and dealing with the issue as outlined in this policy, in addition to co-operating with any investigation by CECA.



## Reportable Conduct

Following the commencement of the ACT Reportable Conduct Scheme in July 2017 (in response to the Royal Commission into institutional responses to child sexual abuse), Heritage is required to notify the ACT Ombudsman of allegations that any employee (including volunteers and others engaged to provide services to children) has engaged in conduct that results in:

- Ill treatment.
- Neglect or psychological harm to a child.
- Misconduct of a sexual nature.
- Criminal offences involving a child.

**Refer to:** Definitions.

**Note:** Reportable conduct covers a broader range of conduct compared to the types of child abuse which must be reported to CECA (see above) and Child and Youth Protection Services (see below). For example, Heritage may become aware of an allegation or conviction that is reportable to the ACT Ombudsman but is not conduct which must be mandatorily reported to CECA or CYPS.

- The notification must be lodged as soon as possible, but no later than 30 days after Heritage becomes aware of the conduct. **Refer to:** Form s17 G on ACT Ombudsman website: <http://www.ombudsman.act.gov.au/reportable-conduct-scheme> Phone: 02 6276 3770. Email: [act@ombudsman.gov.au](mailto:act@ombudsman.gov.au)
- The scheme does not interfere with reporting obligations to ACT Policing, CECA or Child and Youth Protection Services (CYPS) or any other relevant professional bodies.
- Heritage is required to investigate any allegations of Reportable Conduct and provide a final report to the Ombudsman.

**Note: Where the same information is required by CECA and the ACT Ombudsman:**

A copy of the CECA notification can be forwarded to the Ombudsman's office as a substitute for the required notification (s17G Notification). Where CECA investigates a Reportable Conduct matter, Heritage may decide not to investigate internally and may rely on the investigation conducted by CECA. In this circumstance, the findings of the CECA investigation can be provided by Heritage to the Ombudsman to meet reporting obligations under section 17J of the Ombudsman Act.

**Refer to:** Reportable Conduct Policy.

## Child Abuse or Neglect

- Prescribed matters requiring notification of the ACT Regulatory Authority include allegations that physical and/or sexual abuse of a child has occurred, or is occurring, while a child is being educated and cared for at Heritage. CECA must be notified within **7 days** of receiving the Complaint/Grievance.
- Where a complaint involves a reasonable belief or suspicion that an enrolled child is at risk of abuse or neglect from an employee, educators are required to notify Child and Youth Protection Services using the Child Concern Report without delay at <https://form.act.gov.au/smartforms/csd/child-concern-report/>
- Where the alleged behaviour which must be reported to CYPS does not involve an employee (for example, the allegation is against a parent), there is no requirement to report to the ACT Ombudsman (see above).

**Refer to:** Child Protection Policy



## Staff Complaints and Grievances - Reporting Obligations Summary

**A member of staff receives a Staff General Complaint**



Inform the Director (or Chair/Human Resources Officer of the Committee if the complaint is against the Director) if the complaint cannot be resolved in a timely manner, escalates to become a Formal Grievance or alleges conduct that may constitute criminal conduct, a Notifiable Complaint, Reportable Conduct, child abuse/neglect, harassment, discrimination or bullying (**refer to: Definitions**).



**The Director/Management Committee receives a Staff General Complaint or Formal Grievance**



The Director, in consultation with the Committee must determine if the complaint/grievance alleges conduct that may constitute criminal conduct, a Notifiable Complaint, Reportable Conduct or child abuse/neglect (**refer to: Definitions**).



<b>Criminal Conduct</b>	<b>Notifiable Complaint</b>	<b>Reportable Conduct</b>	<b>Child Abuse/Neglect</b>
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Report to the Police immediately.



Report to the Regulatory Authority (CECA) within 24 hours.

*(CECA notification may be forwarded to Ombudsman).*



Report to the ACT Ombudsman as soon as possible and within 30 days.



Report to CECA within 7 days, and Child and Youth Protection Services without delay

**Note:** Where a Staff Complaint/Grievance alleges **bullying, discrimination or harassment**, the Director and Committee will consider contacting the Australian Human Rights Commission or Fair Work Australia for advice.

**Contacts:**

- [http://files.acecqa.gov.au/files/ApplicationForm/Notification/NL01\\_NotificationOfComplaintsAndIncidents.pdf](http://files.acecqa.gov.au/files/ApplicationForm/Notification/NL01_NotificationOfComplaintsAndIncidents.pdf)
- <http://www.ombudsman.act.gov.au/reportable-conduct-scheme>
- <https://form.act.gov.au/smartforms/csd/child-concern-report/>
- <http://www.humanrights.gov.au> / [www.fairwork.gov.au](http://www.fairwork.gov.au)



## Documenting Staff Complaints and Grievances

All complaints and grievances between members of staff, management or the Management Committee must:

- Be recorded on the relevant incident and grievance forms in order to ensure all discussions, agreed resolution strategies, timeframes and outcomes are documented. **Refer to:** Incident Form, General Complaints Record Form, Formal Grievance Record Form, Grievance Meeting Form.
- Be recorded on the relevant staff member's file and in the Staff Warnings, Grievances and Issues Folder as required (**refer to:** Staff Underperformance and Misconduct Policy; Non-Compliance Policy).
- Be stored securely to ensure the confidentiality of the incidents and records. Documents will only be accessible to the Responsible Person at Heritage and other authorised staff and Management Committee members on a need-to-know basis. **Refer to:** Privacy and Confidentiality Policy.

## Monitoring and Evaluating Staff Complaints and Grievances

- The outcome of staff complaints and grievances processes will be reported by the Director or Chair of the Management Committee to the Management Committee together in a timely manner together with any recommendations for consideration by the Management Committee, such as recommendations for changes to policies or practices.
- Any recommendations or actions must be accordance with relevant legislation and funding requirements including, but not limited to the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*
- To assess whether the values and purposes of the Staff Complaints and Grievances Policy and Procedures has been achieved, the Management Committee will:
  - Revise the policy and procedures as part of the Heritage policy review cycle, or as required.
  - Keep the policy up to date with current legislation, research, policy and best practice.
  - Seek feedback from everyone affected by the policy regarding its effectiveness.
  - Review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner.
  - Monitor Complaints and Grievances as recorded in the Staff Warnings, Grievances and Issues Folder to assess whether satisfactory resolutions have been achieved.
  - Notify parents/guardians at least 14 days before making any changes to this policy or its procedures.
- When preparing the annual Quality Improvement Plan, the Staff Warnings, Grievances and Issues Folder may be used by the Director in consultation with the Management Committee to assess how to better meet the needs of children and families at the service.

## Summary of Responsibilities

### The Management Committee is Responsible for:

- Being familiar with the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*, the Heritage Constitution and Heritage policies including the Staff Complaints and Grievances Policy and Procedures
- Ensuring that the name and telephone number of the Director and Chair of the Management Committee, to whom Complaints and Grievances may be addressed, is displayed prominently at the main entrance of the service (Regulation 173(2)(b)).
- Ensuring that the address and telephone number of the Regulatory Authority (CECA) is displayed prominently at the main entrance of the service (Regulation 173(2)(e)).
- Ensuring this policy is available at the service at all times (Regulation 171).
- Being aware of, and committed to, the principles of communicating and sharing information with the Heritage community.
- Responding to all staff Complaints and Grievances in the most appropriate manner according to this policy and at the earliest opportunity.
- Treating all Complainants and Aggrieved Persons fairly and equitably.



- Complying with the Heritage Privacy and Confidentiality Policy and maintaining confidentiality at all times (Regulations 181, 183).
- Appointing where possible, the Director/Nominated Supervisor as the Grievance Mediator to investigate and resolve issues unless there is a conflict of interest.
- Referring Complaints or Grievances that are unable to be resolved appropriately and in a timely manner to the Mediator.
- Informing CECA within 24 hours of receiving a Notifiable Complaint (**refer to:** Definitions) (Act 174(4), Regulation 176(2)(b)).
- Informing the ACT Ombudsman as soon as possible, and no later than 30 days after becoming aware of the Reportable Conduct.
- Where there is a reasonable belief or suspicion that an enrolled child is at risk of abuse or neglect from an employee, notifying Child and Youth Protection Service. **Refer to:** Child Protection Policy.
- Receiving recommendations from the Grievances Mediator and taking appropriate action.
- Monitoring staff Complaints and Grievances and assessing the Staff Warnings, Grievances and Issues folder annually as part of the Quality Improvement Plan, to ensure outcomes are consistent and identify where there is room for improvement in the provision of the service.

### **The Director (Nominated Supervisor) is Responsible for:**

- Being familiar with the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*, the Heritage Constitution and all Heritage policies including the Staff Complaints and Grievances Policy and Procedures
- Identifying, preventing and addressing potential workplace concerns and Complaints before they become formal grievances.
- Advising all new staff and Committee members of the Staff Complaints and Grievances Policy and Procedures upon enrolment/election. **Refer to:** Educator Handbook, Policy Handbook, and Committee Handbook.
- Being aware of, and committed to, the principles of communicating and sharing information with the Heritage community.
- Responding to all staff Complaints and Grievances in the most appropriate manner according to this policy and at the earliest opportunity.
- Acting as the Grievance Mediator as required, unless there is a conflict of interest, to investigate and take appropriate action to resolve Grievances.
- Treating all Complainants and Aggrieved Persons fairly and equitably.
- Maintaining a Staff Warnings, Grievances and Issues Folder and ensuring that records of staff Complaints and Grievances are made on the appropriate forms, along with outcomes.
- Complying with the Heritage Privacy and Confidentiality Policy and maintaining confidentiality at all times (Regulations 181, 183).
- Referring Complaints and Grievance to the relevant authorities, in consultation with the Management Committee as required. **Refer to:** Reporting Obligations.

### **Educators and all other Staff are Responsible for:**

- Maintaining professionalism and integrity at all times and participating in good faith in resolving Complaints and Grievances appropriately according to this policy so that Heritage maintains a respectful workplace that contributes to its' reputation for providing high quality early education and care.
- Responding to and resolving issues as they arise where practicable.
- Discussing minor Complaints directly, respectfully, professionally and openly with the party involved as a first step towards resolution.
- Informing Complainants of the Staff Complaints and Grievances Policy.
- Recording all Complaints on the relevant forms and storing them securely in the Complaints and Grievances Folder in the Main Office.
- Notifying the Director if a Complaint is unable to be resolved appropriately in a timely manner; escalates and becomes a Formal Grievance, or alleges conduct that may constitute





criminal conduct, a Notifiable Complaint, Reportable Conduct, child abuse/neglect, sexual harassment, discrimination or bullying (**refer to:** Reporting Obligations).

- Providing information as requested by the Management Committee e.g. written reports relating to Complaints and Grievances.
- Complying with the Heritage Privacy and Confidentiality Policy and maintaining confidentiality at all times (Regulations 181, 183).
- Working co-operatively with the Management Committee and relevant authorities such as CECA, the ACT Ombudsman or CYPS in any investigations related to staff Complaints and Grievances.

**Volunteers and Students**

- Volunteers and students, while at the service, are responsible for following this policy and its procedures.

**Related Policies and Documents**

Name	Location	
Behaviour Guidance Policy	Policy Handbook and Heritage Handbook (available on Heritage website).	
Child Protection Policy		
Complaints and Grievance Management (non-Staff) Policy		
Creating Inclusion and Equity Policy		
Employment and Staffing (incl. Volunteers and Students) Policy		Policy and Procedures Manuals in Main Office, Front Entrance and Staff Programming Room/Library.
Heritage Code of Ethics		
Heritage Philosophy Statement		
Non-Compliance Policy		
Privacy and Confidentiality Policy		Educator and Relief Educator Handbooks.
Reportable Conduct Policy		
Staff Underperformance and Misconduct Policy		
United Voice and Heritage Early Childhood Centre Big Steps Enterprise Agreement 2013		
Work Health and Safety Policy		

**References and Further Reading**

**Australian Children’s Education and Care Quality Authority (ACECQA).** (2017). *Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011*. <http://files.acecqa.gov.au/files/National-Quality-Framework-Resources-Kit/NQF-Resource-02-Guide-to-ECS-Law-Regs.pdf>

**Australian Children’s Education and Care Quality Authority (ACECQA).** (2018). *Guide to the National Quality Framework - Complaints to the Regulatory Authority*, p572. <http://files.acecqa.gov.au/files/NQF/Guide-to-the-NQF-180118.pdf>

**ACT Ombudsman (2017).** *Reportable Conduct Scheme* <http://www.ombudsman.act.gov.au/reportable-conduct-scheme> and <http://www.ombudsman.act.gov.au/reportable-conduct-scheme/resource-kit>

**Australian Human Rights Commission (2014).** *Workplace discrimination, harassment and bullying*. <http://www.humanrights.gov.au/employers/good-practice-good-business-factsheets/workplace-discrimination-harassment-and-bullying>

**Australian Human Rights Commission (2014).** *Good practice guidelines for internal complaint processes*. <http://www.humanrights.gov.au/employers/good-practice-good-business-factsheets/good-practice-guidelines-internal-complaint>



**Australian Human Rights Commission (2014).** *Quick Guide to Discrimination Law.*  
[www.humanrights.gov.au/employers](http://www.humanrights.gov.au/employers)

**Australian National University. (2016).** *Staff Grievance Resolution Procedure.*  
[https://policies.anu.edu.au/ppl/document/ANUP\\_000500](https://policies.anu.edu.au/ppl/document/ANUP_000500)

**Australian National University (2016).** *Staff Grievance Resolution Policy*  
[https://policies.anu.edu.au/ppl/document/ANUP\\_000466](https://policies.anu.edu.au/ppl/document/ANUP_000466)

**Australian National University (2016).** *Staff Grievance Resolution Procedure*  
[https://policies.anu.edu.au/ppl/document/ANUP\\_000500](https://policies.anu.edu.au/ppl/document/ANUP_000500)

**Commonwealth Ombudsman (2009).** *Better Practice Guide to Complaint Handling*  
[http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0020/35615/Better-practice-guide-to-complaint-handling.pdf](http://www.ombudsman.gov.au/_data/assets/pdf_file/0020/35615/Better-practice-guide-to-complaint-handling.pdf)

**Fair Work Australia (2017).** *Help Resolving Workplace Issues.*  
<https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues>

**Fair Work Commission (2017).** *Anti-Bullying.*  
<https://www.fwc.gov.au/disputes-at-work/anti-bullying>

**Fair Work Commission (2017).** *Anti-Bullying Benchbook*  
<https://www.fwc.gov.au/resources/benchbooks/anti-bullying-benchbook>

**National Childcare Accreditation Council (2008).** *Sample Policy Template: Grievances and Complaints Management Policy.* Retrieved October 16, 2012 from,  
<http://ncac.acecqa.gov.au/educator-resources/policy-development.asp>

**University Preschool and Childcare Centre. (2016).**  
*Complaints Policy and Grievance Procedure*  
<https://www.upccc.com.au/wp-content/uploads/2017/01/COMPLPOL-23-06-16.pdf>

**Useful Websites**

Australian Children’s Education and Care Quality Authority - <http://files.acecqa.gov.au>  
 ACT Ombudsman - <http://www.ombudsman.act.gov.au/>  
 Commonwealth Ombudsman - <http://www.ombudsman.gov.au>  
 Australian Human Rights Commission - <http://www.humanrights.gov.au>  
 Fair Work Australia - [www.fairwork.gov.au](http://www.fairwork.gov.au)

**Version Control and Change History**

Version Number	Approval Date	Approved by	Author and Amendments
1	October 2001	Management Committee	
2	July 2008	Management Committee	Adopted and amended the National Childcare Accreditation Council’s policy on the management of grievances and complaints.
3	November 2012	Management Committee	Added aggrieved person must <u>write</u> to the Director, Chair of Management Committee or Human Resources Officer on the Management Committee to instigate Formal Grievance proceedings. Simplified Grievance Procedure to 1) Informal Discussion 2) Formal Staff Grievance Meeting 3) Right to contact outside agency if remains unresolved. Updated Forms Added Staff Grievance Meeting Guidelines. Added Rationale and National Quality Standards. Changed Occupational Health and Safety Act 1989 (ACT) to ACT Work Safety Act, 2008. Added references to Staff Underperformance and Misconduct Policy. Updated Related Policies and References



			Added Appendix: Grievance Management Procedure
4	Sept 2013	Director	Added requirement to report complaints and incidents (other than serious incidents – <b>refer to:</b> Emergency Policy) to ACT Regulatory Authority using form at <a href="http://www.acecqa.gov.au/notifications">http://www.acecqa.gov.au/notifications</a> .
5	17 July 2018	Heritage Management Committee	Author: Julia Charters Added Contents Page and Definitions. Updated References. Updated procedures to better reflect Definitions; National Quality Standard - 2018 update; reporting obligations (to CECA, ACT Ombudsman, CYPS etc); Australian Human Rights Commission’s <i>Good practice guidelines for internal complaint processes</i> ; and Commonwealth Ombudsman’s <i>Better Practice Guide to Complaint Handling</i> . Added Reporting Obligations and Summary Chart. Added Appendix of Relevant National Law, Regulations and Quality Standards. Added Summary of Responsibilities.



## Appendix 1: Relevant National Law, Regulations and Quality Standards

### Regulation 168: Education and care service must have policies and procedures

- (1) The approved provider of an education and care service must ensure that the service has in place policies and procedures in relation to the matters set out in sub-regulation (2).
- (2) Policies and procedures are required in relation to the following:
  - (o) Dealing with complaints.

### National Law Section 166: Offence to use inappropriate discipline

- (1) The approved provider of an education and care service must ensure that no child being educated and cared for by the service is subjected to-
  - (a) Any form of corporal punishment; or
  - (b) Any discipline that is unreasonable in the circumstances.
- (2) The nominated supervisor of an education and care service must ensure that no child being educated and cared for by the service is subjected to-
  - (a) Any form of corporal punishment; or
  - (b) Any discipline that is unreasonable in the circumstances.
- (3) A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to-
  - (a) Any form of corporal punishment; or
  - (b) Any discipline that is unreasonable in the circumstances.

### National Law Section 167: Offence relating to protection of children from harm and hazards

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury.
- (2) A nominated supervisor of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury.

### National Law: Section 174: Offence to fail to notify certain information to Regulatory Authority

- (2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider--
  - (a) any serious incident at the approved education and care service;
  - (b) any complaints alleging--
    - (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service; or
    - (ii) that this Law has been contravened;
  - (c) information in respect of any other prescribed matters.

#### **Note: Change to National Law Section 174 from October 2017**

The Approved Provider is now only be required to notify the ACT Regulatory Authority of a complaint that alleges:

- a serious incident (**Refer to:** National Regulation 12) has occurred or is occurring or;
- the National Law or National Regulations have been contravened.

Clause removed:

- (i) That the safety, health or wellbeing of a child or children was or is being compromised while that child or children is or are being educated and cared for by the approved education and care service

### National Regulation 175 (2)(e)

Allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the education and care service must be reported to the Regulatory Authority by the Approved Provider within 7 days of the incident or the provider becoming aware of the incident



National Regulation 176: Time to notify certain information to Regulatory Authority

(2) For the purposes of section 174(4) of the Law, a notice must be provided-

- (a) In the case of a notice under section 174(2)(a)-
  - (i) In the case of the death of a child, as soon as practicable but within 24 hours of the death, or the time that the person becomes aware of the death; and
  - (ii) In the case of any other serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident.
- (b) In case of a notice under section 174(2)(b) or a notice of a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident.

National Regulation 12: Meaning of serious incident

For the purposes of the definition of serious incident in section 5(1) of the Law, each of the following is prescribed as a serious incident—

- (a) the death of a child—
  - (i) while that child is being educated and cared for by an education and care service;or
  - (ii) following an incident occurring while that child was being educated and cared for by an education and care service;
- (b) any incident involving serious injury or trauma to a child occurring while that child is being educated and cared for by an education and care service—
  - (i) which a reasonable person would consider required urgent medical attention from a registered medical practitioner; or
  - (ii) for which the child attended, or ought reasonably to have attended, a hospital;

Example. A broken limb.

- (c) any incident involving serious illness of a child occurring while that child is being educated and cared for by an education and care service for which the child attended, or ought reasonably to have attended, a hospital;

Example. Severe asthma attack, seizure or anaphylaxis reaction.

- (d) any emergency for which emergency services attended;
- (e) any circumstance where a child being educated and cared for by an education and care service—
  - (i) appears to be missing or cannot be accounted for; or
  - (ii) appears to have been taken or removed from the education and care service premises in a manner that contravenes these Regulations; or
  - (iii) is mistakenly locked in or locked out of the education and care service premises or any part of the premises.

**Note: Change to National Regulation 12 from October 2017**

*The definition of 'serious incident' for notification purposes in relation to the attendance of emergency services was updated to specify that notification of Regulatory Authorities was only needed where emergency services attended a service as a result of an 'emergency' and not, for example, as a precautionary measure.*

*The definition of 'emergency' for notification purposes updated to an incident, situation or event where there is an imminent or severe risk to the health, safety or wellbeing of a person/s at a place where education and care is being provided.*

National Regulation 84: Awareness of Child Protection Law

The Approved Provider of an education and care service must ensure that the Nominated Supervisor and staff members at the service who work with children are advised of—

- (a) The existence and application of the current child protection law; and
- (b) Any obligations that they may have under that law.

National Regulation 155: Interactions with children

An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that-

- (a) Encourages the children to express themselves and their opinions; and
- (b) Allows the children to undertake experiences that develop self-reliance and self-esteem; and



- (c) Maintains at all times the dignity and rights of each child; and
- (d) Gives each child positive guidance and encouragement toward acceptable behaviour; and
- (e) Has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.

### **National Quality Standard (as per updated NQS, February 2018)**

#### Quality Area 7: Governance and Leadership

Standard 7.1 Concept: Governance. Descriptor: Governance supports the operation of a quality service.

Element 7.1.1 Concept: Service philosophy and purpose. Descriptor: A statement of philosophy guides all aspects of the service's operations.

Element 7.1.2 Concept: Management Systems. Descriptor: Systems are in place to manage risk and enable the effective management and operation of a quality service.

Element 7.1.3 Concept: Roles and responsibilities. Descriptor: Roles and responsibilities are clearly defined, and understood, and support effective decision making and operation of the service.

Standard 7.2 Concept: Leadership. Descriptor: Effective leadership builds and promotes a positive organizational culture and professional learning community.

Element 7.2.1 Concept: Continuous improvement. Descriptor: There is an effective self-assessment and quality improvement process in place.

### **Other Related Quality Areas**

#### Quality Area 2: Children's Health and Safety

Standard 2.2 Concept: Safety. Descriptor: Each child is protected.

Element 2.2.1 Concept: Supervision. Descriptor: At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard.

Standard 2.3 Concept: Child protection. Descriptor: Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse and neglect.

#### Quality Area 4: Staffing Arrangements

Standard 4.2 Concept: Professionalism. Descriptor: Management, educators, and staff are collaborative, respectful and ethical.

Element 4.2.2 Concept: Professional standards. Descriptor: Professional standards guide practice, interactions and relationships.

#### Quality Area 5: Relationships with Children

Standard 5.1 Concept: Relationships between educators and children. Descriptor: Respectful and equitable relationships are developed and maintained with each child.

Element 5.1.1 Concept: Positive educator to child interactions. Descriptor: Responsive and meaningful interactions build trusting relationships which engage and support each child to feel secure, confident and included.

Element 5.1.2 Concept: Dignity and rights of the child. Descriptor: The dignity and rights of every child are maintained.

#### Quality Area 6: Collaborative partnerships with Families and Communities

Standard 6.1 Concept: Supportive relationships with families. Descriptor: Respectful relationships with families are developed and maintained and families are supported in their parenting role.

Element 6.1.1 Concept: Engagement with the service. Descriptor: Families are supported from enrolment to be involved in the service and contribute to service decisions.

Element 6.1.2 Concept: Families views are respected. Descriptor: The expertise, culture, values and beliefs of families are respected and families share in decision-making about their child's learning and wellbeing.

Standard 6.2 Concept: Collaborative partnerships. Descriptor: partnerships enhance children's inclusion, learning and wellbeing.

**Early Years Learning Framework (EYLF) for Australia:** Principles 1, 2 and 4: Secure, respectful and reciprocal relationships; Partnerships; Respect for diversity.